Remarks

Claim 31 has been amended, claims 42-69 have been added and claim 41 has been cancelled without prejudice. The added dependent claims each find ample antecedent basis in the specification, and are patentable for the reasons provided below and for others as well. Upon entry of this Amendment, claims 31-40 and 42-69 will be pending and in condition for allowance. The present amendment is filed in response to the Office Action mailed December 3, 2003, the unextended period for response to which is set to expire March 3, 2004.

A Supplemental Information Disclosure Statement will be sent under separate cover.

The rejection under Section 112 is rendered moot by virtue of the above editorial amendment.

The rejections under Section 102 and 103 are respectfully traversed. Since both rejections rely solely on Whitbourne et al., they will be dealt with together. At the outset, Whitbourne et al. fail, for a variety of reasons, to teach or suggest the invention as presently claimed, including the fact that the reference fails entirely to describe the use of a poly(alkyl)(meth)acrylate of the type, or in the manner, presently claimed.

Instead, the reference merely describes the use of an array of possible "stabilizing polymers", including "ethylene vinyl acetate copolymers" (presumably corresponding to Applicant's poly(ethylene-*co*-vinyl acetate "PEVA"). In this regard, the reference seems no closer than the general body of art that involves the use of PEVA, *per se*, for the delivery of bioactive agents from such things as polymeric films, microspheres, or coatings. See, for example, PCT Publication No. WO 95/03036, which is included in the above-described Supplemental Information Statement, and which describes the use of PEVA alone and in combination with such things as surfactants (e.g., Example 13) and biodegradable polymers (e.g., Example 11).

Rather than describing Applicant's poly(alkyl)(meth)acrylate, however, Whitbourne et al. merely describe compounds such as "butylmethacrylate" (e.g., at column 2, line 21), which are considerably different, in both form and function. The term butylmethacrylate is merely used as an example of, and in reference to, the "cross-linkable" acrylic and methacrylic polymers described throughout the reference. In turn, the reference itself describes such polymers (including at column 6, lines 5-16) as "cross-linkable acrylics with at least one component containing carboxyl, hydroxyl, amide or methylol groups" – a definition that is quite in synch with its accepted meaning, and that would exclude poly(alkyl)(meth)acrylates, *per se*.

The differences between the polymers of Whitbourne et al., and those presently claimed, are therefore considerable and significant from a chemical perspective. These differences, in turn, correspond with different properties and functions as well. Coatings that include the above-described acrylic polymers of Whitbourne et al. are prepared by *cross-linking* those polymers, regardless of whether other "stabilizing polymers" may be present. This can be compared to the method of the present invention, in which the *combination* of

poly(alkyl)(meth)acrylate and poly(ethylene-co-vinyl acetate) is itself sufficient, and can be controlled to provide the desired results, without the need to cross-link.

Finally, Applicants refer to the Examiner's citation of Lentz 2002/0133183, and without addressing the question of whether this reference may or may not constitute "prior art", stand ready to discuss this and any other reference upon request of the Examiner.

In view of the above remarks, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all rejections is respectfully requested.

Respectfully submitted,

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